

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: CITY OF DETROIT, . Docket No. 13-53846
MICHIGAN, .
 . Detroit, Michigan
 . June 10, 2015
Debtor. . 1:53 p.m.

EXPEDITED HEARING RE. MOTION TO ENFORCE CITY OF DETROIT'S
MOTION FOR (I) DETERMINATION THAT THE GOODMAN ACKER AND
HAAS & GOLDSTEIN LAW FIRMS HAVE VIOLATED THE PLAN OF
ADJUSTMENT BY (A) REFUSING TO HONOR AN ADR SETTLEMENT
AND/OR (B) SEEKING RELIEF ON A PRE-PETITION CLAIM BEYOND
THAT ALLOWED BY THE PLAN OF ADJUSTMENT AND (II)
ORDER ENJOINING FURTHER VIOLATIONS
BEFORE THE HONORABLE THOMAS J. TUCKER
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

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1 THE CLERK: All rise. This Court is now in session.
2 The Honorable Thomas J. Tucker is presiding. You may be
3 seated. The Court calls the case of the City of Detroit,
4 Michigan, Case Number 13-53846.

5 THE COURT: Any attorneys in the courtroom for this
6 case? Would you let them know if they're out there? I
7 thought they were ready to go.

8 MR. RAIMI: I apologize, your Honor.

9 THE COURT: All right. We called the case. Let's
10 have appearances, please.

11 MR. RAIMI: My name is Charles Raimi. I'm the
12 deputy corporation counsel for the City of Detroit.

13 MR. SWANSON: Marc Swanson on behalf of the City of
14 Detroit.

15 MS. HAMMERSCHMIDT: Good afternoon, your Honor.
16 Marguerite Hammerschmidt on behalf of the Haas & Goldstein
17 law firm.

18 MR. HAAS: Good afternoon, your Honor. Justin Haas
19 also co-counsel on behalf of Haas & Goldstein.

20 MR. ACKER: Good afternoon, your Honor. Gerald
21 Acker on behalf of the Goodman Acker law firm.

22 THE COURT: All right. I understand there's some
23 sort of agreed resolution.

24 MR. ACKER: Can we approach, your Honor?

25 THE COURT: You can. We're not going off the

1 record. We can do a side bar, but it'll be on the record.
2 The audio recording will pick it up.

3 MR. ACKER: We have a resolution, your Honor.

4 MR. RAIMI: Let me try. Charles Raimi, deputy
5 corporation counsel.

6 THE COURT: Mr. Raimi and other counsel, if there's
7 something particularly sensitive that any of the parties want
8 to file under seal in connection with this matter or if
9 there's any reason why you would like the Court not to follow
10 its usual practice of posting automatically today -- later
11 today the audio of today's hearing on the website for all the
12 public to easily access, you know, you can tell me that and
13 you can ask for permission to do these things, but otherwise,
14 you know, everything is on the record and open to the public.
15 So, Mr. Raimi, you were saying?

16 MR. RAIMI: Here's my understanding of what the
17 parties have agreed to, your Honor. As far as the dispute
18 between the city and the Goodman Acker law firm, we have
19 worked that out. The city had asked to enforce the \$40,000
20 settlement. That has been agreed to, and there's a motion up
21 on Friday before the Circuit Court judge, and we're all of
22 the assumption that when the judge knows there is a
23 settlement, the trial date will be adjourned so that we can
24 make the payment, so we'll be dismissing the issue with
25 Goodman Acker.

1 With respect to the Haas & Goldstein firm, the
2 settlement envisions that from dismissing all of their state
3 court motions seeking to enforce settlements on pre-petition
4 claims. The settlement further envisions that the parties
5 will agree that the state courts do not have jurisdiction
6 over petitions to enforce settlements of pre-petition claims.
7 The city will agree to pay settlements on pre-petition claims
8 within 60 days -- I'm sorry -- that the city will agree to
9 submit to City Council for approval settlements on pre-
10 petition claims within 30 days after receipt of the signed
11 settlement documents and payments to issue approving --
12 assuming city council approval, payments to issue within 60
13 days thereafter.

14 THE COURT: Within 60 days after council approval?

15 MR. RAIMI: Council approval. The Bankruptcy Court
16 will retain jurisdiction over the provisions of this order.
17 And then the final issue, your Honor, is this, and it's
18 raised by the paper that was attached to the city's
19 supplemental filing. It's a motion filed by the Haas &
20 Goldstein firm to enforce a settlement in a case where the
21 medical provider provided services for Sheila Williams. And
22 the wrinkle there, your Honor, is that the auto accident
23 occurred pre-petition, but the medical services for which the
24 suit seeks payment occurred post-petition. And it's the
25 city's position that the provisions of the plan of adjustment

1 barring collection of interest and attorney fees applies in
2 that situation. It is the position of Goodman Acker and Haas
3 & Goldstein and I presume most of the rest of the plaintiff's
4 bar that the provisions on interest and attorney fees do not
5 apply, and so what we're respectfully suggesting is that that
6 one issue would need to be briefed for the Court.

7 THE COURT: In connection with the present motion --

8 MR. RAIMI: That's correct.

9 THE COURT: -- further proceedings on the present
10 motion?

11 MR. RAIMI: That's correct, your Honor.

12 THE COURT: So the idea, if I understand you
13 correctly, is -- of the agreed settlements here is that
14 everything relating to your motion that's before me today,
15 including the motion, as supplemented by your June 5
16 supplement, is going to be resolved by this order, the agreed
17 order the parties are going to prepare and submit that
18 you've -- the terms of which you've described, with the
19 exception of this last issue that you have just described,
20 which the parties want to -- what? You want a briefing
21 schedule on that, a further hearing or what?

22 MR. RAIMI: I think a briefing schedule, and if your
23 Honor believes oral argument would be helpful, we're, of
24 course, happy to do that.

25 MR. ACKER: Your Honor, if I --

1 THE COURT: Okay. All right. I think -- anything
2 else, Mr. Raimi, before we hear from the others?

3 MR. RAIMI: No, no. That was it.

4 THE COURT: Go ahead. Mr. Acker.

5 MR. ACKER: Yes, your Honor. That comports with our
6 understanding. The purpose of this whole exercise by both
7 the Haas & Goldstein firm and my firm is to compel payment of
8 the cases that have been settled that the city has
9 documentation on and simply can't get checks out of them, and
10 the question is whether the city is going to be the old city
11 or the new city, and that's what we're trying to work
12 through. I think we have today.

13 On the Williams issue, it seems to me that the Court
14 is going to enforce that globally not just to the Williams
15 claim but to all of the claims, and the Court has then -- I
16 think there's an obligation to provide notice to all parties
17 that are going to be affected by that and resolve that
18 briefing schedule that way as well, your Honor.

19 THE COURT: Well, what is the universe of such
20 parties?

21 MR. ACKER: Well, there's 1,400 claims against the
22 City of Detroit right now. I would imagine that there's
23 somewhere in the area of 60 or 70 plaintiff counsels.

24 MR. RAIMI: But I think there's about 320 first
25 party -- pre-petition first party, so I think if notice is --

1 and you know every one of them, Mr. Acker, so you can notify
2 them and they can file something.

3 MR. HAAS: And if I may, your Honor, Justin Haas.
4 Whether or not any of those pre-petition claims for first
5 party cases were settled, if the city was put on notice at
6 one point in time, even though there might have not been a
7 settlement for that particular claim, no-fault does provide
8 lifelong benefits. The issue may come up on other cases
9 later on as well, so the pool may actually even be bigger
10 than that depending on -- it could essentially be all of the
11 individuals that were injured where the City of Detroit was
12 responsible to pay first party benefits prior to July 18th of
13 '13 or whatever the day of the filing of the bankruptcy was.

14 THE COURT: So the ramification of that is what?

15 MR. HAAS: Well, the question was how big was the
16 pool of people or individuals. I mean the representatives
17 are probably essentially going to be the same anyways. It
18 would be the plaintiff's bar that represent those individuals
19 in the Detroit metropolitan area.

20 THE COURT: Well, if the parties want to agree to
21 give notice to a larger pool than just the ones that are
22 represented by your two firms relating to this present
23 motion, you can agree on that, and that's fine with me, but,
24 you know, on the other hand, this is perhaps not unlike just
25 about any other issue in the bankruptcy case. A decision by

1 this Court about, for example, what some particular provision
2 in the confirmed plan means decided in the context of an
3 individual dispute between the city and some individual
4 creditor, you know, is going to be decided in that context,
5 and it may impact, as a practical matter, at least, other
6 parties, but that doesn't mean that for every one of these
7 issues that comes up we're going to have to notice the entire
8 creditor body.

9 MR. HAAS: I agree, your Honor, and I guess my only
10 point in asking that other people may be given the
11 opportunity to brief if need be is only because their rights
12 might be affected in some way. And even though I believe
13 that between my firm and Mr. Acker's firm that we have a
14 pretty strong hold on the no-fault law and can brief
15 appropriately for this Court, someone else may be compelled
16 or feel that they have a -- can offer a greater knowledge
17 base to allow this Court to make an informed decision.

18 THE COURT: Okay. So the parties -- it sounds like
19 you've reached a resolution on everything except this last
20 piece and the details of it.

21 MR. HAAS: Yeah, I think we have, and the only
22 other --

23 THE COURT: The details of how it's going to be
24 briefed, notice, and so forth?

25 MR. HAAS: Yes.

1 MR. RAIMI: Can I address that point, your Honor?

2 THE COURT: Sure, yeah.

3 MR. RAIMI: And I agree completely with your Honor
4 that this is exactly like other situations, and the city does
5 not want to have to respond to, you know, ten different
6 briefs on this issue, so, you know, it would seem to me that
7 the plaintiff's bar can coordinate and come up with a brief
8 that embodies everybody's thoughts so that we don't have to
9 respond to more than one brief. That's my only concern.

10 THE COURT: Well, it may not -- on the other hand,
11 it may not be that big of a burden if you're responding to
12 ten briefs that all say the same thing.

13 MR. RAIMI: That's true. You're correct.

14 THE COURT: There's only so many things you can say
15 about this issue, I think.

16 MR. RAIMI: I think you're right. Okay. Very well.

17 THE COURT: I mean --

18 MR. RAIMI: Yeah.

19 THE COURT: But, you know, I'm open to anything the
20 parties might agree to that's reasonable on the details of
21 this.

22 MR. RAIMI: Okay. Well, we can --

23 THE COURT: You guys want to talk about it some
24 more, or you want me to just set something up here?

25 MR. HAAS: I'm okay to have your Honor set something

1 up. There is one other caveat to the agreement that was put
2 on the record by Mr. Raimi that I just wanted to add is I
3 think that we had some arguments that maybe that these pre-
4 petition settlements that were reached did not require city
5 council approval. However, in light of the agreed upon terms
6 that Mr. Raimi put on the record, I don't feel compelled to
7 argue those now only because the whole intent of this is to
8 try to put some type of time frame where everybody can get
9 paid and put this issue to bed. However, I would like the
10 order to indicate -- and I don't think there's an
11 objection -- that if it does turn out that city council does
12 not approve any of these claims or some of them that the
13 plaintiff -- that I reserve the right to argue whether or not
14 the city council approval was even required. And without
15 going into detail, I think that some of the bankruptcy
16 decrees or orders indicated that those cases could be settled
17 without further approval of the Bankruptcy Court and
18 entrusted the power to the EFM to go ahead and resolve those
19 cases, which we did at that time. I'm willing to put those
20 arguments on hold and hopefully that these time lines can be
21 met and approval, but I do want to reserve that argument in
22 case the city council fails to approve any of these claims.

23 MR. RAIMI: I have no objection to that.

24 THE COURT: I presume, Mr. Haas, if that
25 developed -- that issued developed, city council declines to

1 approve some given particular settlement, the way you would
2 seek to make this argument is by raising it in this Court --

3 MR. HAAS: Oh, that's what I mean.

4 THE COURT: -- not in some state court proceeding.

5 MR. HAAS: We've waiving the state -- we will -- I'm
6 totally comfortable in showing up here on these pre-petition
7 bankruptcy issues. I have no issue with that at all.

8 THE COURT: All right. So, Mr. Acker, I assume you
9 have no problem with this wrinkle that Mr. Haas has just
10 asked for.

11 MR. ACKER: No. I have no objection to that, your
12 Honor.

13 THE COURT: Okay. So back -- I guess we're back to
14 this issue of briefing and -- on this Williams -- what you
15 referred to as this Williams issue.

16 MR. ACKER: Your Honor, if I might suggest to the
17 Court that if the Court gives the city three weeks to brief
18 this issue and gives the plaintiff's bar four weeks after
19 that to respond, and then we could set that up for hearing, I
20 think that's more than sufficient time to --

21 THE COURT: Well, the briefing schedule is going to
22 be in the order. I guess before we get to the details of the
23 briefing schedule, first question is who's to be sent a copy
24 of this order and, therefore, to be given notice of this?

25 MR. ACKER: Do you have the list?

1 THE COURT: And who's to be allowed to file briefs?

2 MR. RAIMI: My understanding -- Marc, how does
3 the -- if we file electronically, does that go to all
4 creditors?

5 MR. SWANSON: Yes. That would go to all creditors.
6 I would propose we'll file the brief electronically. The
7 order will be filed electronically. We'd also provide copies
8 to both of the firms here, and I think that's sufficient
9 notice under the circumstances.

10 THE COURT: Well, that's not going to necessarily
11 get notice to all of the creditors who might be affected;
12 right? Not everybody is getting notices of electronic
13 filing.

14 MR. SWANSON: I think your Honor is right. It may
15 not, but as your Honor stated previously, there's lots of
16 issues that affect lots of creditors that are decided without
17 providing notice to those specific creditors.

18 THE COURT: Well --

19 MR. RAIMI: You know --

20 THE COURT: -- I guess, you know, if either of the
21 law firms here -- Mr. Acker, your firm; Mr. Haas, your
22 firm -- if either of you want something in particular in
23 terms of who else, if anyone, will be allowed to brief and
24 who else will get notice of this order, tell me now what you
25 want specifically.

1 MR. HAAS: I think that if it goes out to all the
2 creditors because some of these other claims, which kind of
3 goes to the point of the argument, might not even be incurred
4 yet or be actuated in any way yet, so I feel comfortable that
5 if the city files a brief and it goes out to all the listed
6 creditors, myself and Mr. Acker can disseminate the
7 information to the --

8 MR. SWANSON: That would be -- that would place an
9 undue burden on the -- I'm sorry -- placing -- providing this
10 to all of the city's creditors would be thousands and
11 thousands of people, and that would place an undue burden on
12 the city.

13 MR. HAAS: No. I just -- I meant by e-filing, but I
14 think what I was going to say is that if it's e-filed and
15 then myself and Mr. Acker and the amicus committee --

16 MR. HAAS: -- from the Michigan Association of
17 Justice be allowed to file a brief, I think that's
18 sufficient, your Honor.

19 MR. HAAS: Yes.

20 MR. ACKER: We will, in our infinite wisdom, figure
21 out who to do it, how to get it there and make sure it's
22 adequately briefed and noticed.

23 THE COURT: So you want -- besides your two firms
24 who are involved directly in this motion, you want the order
25 to say that the Michigan Association of Justice can file an

1 amicus brief?

2 MR. ACKER: Yes, your Honor.

3 THE COURT: I presume same time as your briefs --

4 MR. ACKER: Yes, your Honor.

5 MR. HAAS: Yes.

6 THE COURT: -- in the briefing schedule, and that'll
7 take care of it, you think.

8 MR. HAAS: Yes, your Honor.

9 MR. ACKER: I believe so.

10 THE COURT: And they're going to get notice of this
11 how? From Mr. Acker or Mr. Haas, one of you?

12 MR. ACKER: I will take care of it, your Honor.

13 THE COURT: Does that make sense then, Mr. Raimi and
14 Mr. Swanson?

15 MR. RAIMI: Yes.

16 MR. SWANSON: Yes.

17 MR. RAIMI: That's fine. That's fine.

18 THE COURT: Okay. So -- go ahead.

19 MR. RAIMI: It just occurred to me that there's one
20 loose end, if I could, and that is on the Haas & Goldstein
21 Sheila Williams motion that's been filed in Circuit Court
22 that raises this issue of pre-petition -- of interest and
23 attorney fees. It seems to me that should be dismissed
24 without prejudice pending this Court's decision on the
25 question of whether they're entitled to recover.

1 MR. HAAS: I've already indicated to Mr. Raimi
2 that -- before we came in here that I would be happy to
3 adjourn that motion to take place at some point after, and
4 I'm not going to -- if they need more time after this Court
5 makes a ruling, I've never been one to push the city or hold
6 their feet to the fire as far as time frames. Every time
7 they asked me to adjourn any of my motions I had in state
8 court, I've been agreeable. I don't want it dismissed
9 because there are time frames to file those motions with the
10 Circuit Courts. I think it's properly filed there, but I
11 have no issue with adjourning it until we get a ruling from
12 this Court.

13 THE COURT: Does that sufficiently address your
14 concern on that, Mr. Raimi?

15 MR. RAIMI: Yes, it does, your Honor.

16 THE COURT: Okay. So briefing schedule then. And,
17 by the way, who's going to prepare this -- the order?

18 MR. RAIMI: I'll take the laboring or -- and then
19 circulate it to all the counsel so we make sure we are in
20 agreement as to the form of the order.

21 THE COURT: All right. So you'll prepare -- you'll
22 draft the order and circulate it. Ultimately the goal will
23 be and the game plan would be for the parties -- that's the
24 city and the two law firms here -- who are respondents to
25 this motion to file a stipulation stipulating to the entry of

1 the order. Attach the order. Submit the order. I'll review
2 it, and, you know, assuming I have no major problem with it,
3 I'll enter it, and then we'll proceed from there.

4 MR. RAIMI: Okay.

5 THE COURT: So the motion before me today then is --
6 I'll deem it settled in part and in part to -- for there to
7 be further proceedings with an order regarding those
8 proceedings to follow.

9 MR. RAIMI: Oh, so you'd like two different orders?

10 THE COURT: No. You can put it all in one order.

11 MR. RAIMI: Put it all in one? Okay. Very well.

12 THE COURT: I mean if you want to split it up,
13 that's okay, too, but -- so in terms of briefing schedules,
14 somebody mentioned three weeks for the first brief.

15 MR. RAIMI: I'm happy with what Mr. Acker proposed,
16 three weeks and then four weeks.

17 THE COURT: Three weeks for the city to go first?

18 MR. RAIMI: Yes.

19 THE COURT: Then four weeks for the respondents and
20 the amicus?

21 MR. ACKER: Yes.

22 MR. HAAS: Yes.

23 MR. RAIMI: And then we'd like the opportunity for a
24 brief reply.

25 THE COURT: And a reply by the city. How long after

1 the --

2 MR. RAIMI: Two weeks, your Honor.

3 THE COURT: Two weeks? All right. Hold on. We're
4 looking at a hearing -- I will have a further hearing to give
5 parties an opportunity for oral argument on this subject to
6 cancellation if I decide to rule on the motion without a
7 hearing, and sometimes that happens. Sometimes I do that by
8 concluding that a hearing isn't necessary on a matter, but
9 otherwise we'll leave a space in the order -- a line in the
10 order to say the Court will hold a hearing to hear oral
11 arguments on this issue on blank 2015 at 1:30 p.m., and
12 that's going to be on a Wednesday afternoon at 1:30 p.m.

13 MR. RAIMI: Okay.

14 THE COURT: It looks like we're looking at something
15 in August or September given the briefing schedule.

16 MR. RAIMI: Okay.

17 THE COURT: But I'll fill that in once I actually --

18 MR. RAIMI: Sure.

19 THE COURT: -- have the order and I know when the
20 order is going to be entered. Then I can figure out when the
21 briefs are going to be filed and when we can have a hearing.
22 Does that make sense to everyone?

23 MR. RAIMI: It does.

24 MR. ACKER: Yes, your Honor.

25 MR. RAIMI: It does, your Honor. Thank you.

1 THE COURT: So -- all right. So how soon do you
2 think you'll be able to get this order --

3 MR. RAIMI: Well, I'm hoping to circulate it
4 hopefully tomorrow, and assuming no problems in getting
5 agreement, I would think by the first of next week we can get
6 it in.

7 THE COURT: All right. Is there anything else we
8 need to talk about today then on this motion?

9 MR. RAIMI: No.

10 THE COURT: No?

11 MR. ACKER: No, your Honor.

12 THE COURT: All right. Well, thank you all, and
13 we'll see you again.

14 MR. ACKER: Thanks, Judge.

15 THE CLERK: Please rise. Court is adjourned.

16 (Proceedings concluded at 2:16 p.m.)

INDEX

WITNESSES:

None

EXHIBITS:

None

I certify that the foregoing is a correct transcript from the sound recording of the proceedings in the above-entitled matter.

/s/ Lois Garrett

June 16, 2015

Lois Garrett